

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

STEVEN B. BARGER,

Plaintiff,

v.

Civil Case No. 1:17-cv-04869-FB-LB

FIRST DATA CORPORATION, *et al.*,

Defendants.

DEFENDANTS' OBJECTIONS TO PLAINTIFF'S TRIAL EXHIBIT LIST

Defendants First Data Corporation, Frank Bisignano, Dan Charron, Anthony Marino, and Rhonda Johnson, by and through their undersigned counsel, respectfully submit the following objections to Plaintiff's proposed trial exhibit list (*see* ECF No. 110). Defendants reserve the right to amend or modify any of the objections set forth herein on the basis of any stipulation entered into by the parties, corrections, revisions, or other modifications to the underlying exhibits, any order from the Court on outstanding motions, and any ruling from the Court impacting admissibility.

Defendants object to the introduction of exhibits that are not properly authenticated, but are willing to confer with Plaintiff regarding means to resolve authenticity objections in advance of trial. However, even in instances where a stipulation as to authenticity may be reached, and unless otherwise noted, Defendants reserve all other objections to admissibility including, but not limited to, objections based on lack of foundation, hearsay, and relevance.

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Charron, Anthony Marino, and Rhonda Johnson*

Dated: September 5, 2019

PLF. NO.	BATES NO.	DEPO NO.	DESCRIPTION OF EXHIBITS AND WITNESSES	DEFENDANTS' OBJECTIONS	PLAINTIFF'S RESPONSE
P- 9			Exhibit 99.2 to First Data's Form 8-K filed with the SEC on January 16, 2019 announcing the acquisition of First Data by Fiserv for \$22 billion in an equity exchange transaction to close later in 2019	Objection. Rule 402; Rule 403; See Defendants' MIL, ECF No. 108, § 2.	
P- 14	SBB002080-3		Consulting Revenue Spreadsheets	Objection. Rule 402; Rule 801; Rule 901	
P- 91	SBB001188-94	121	First Data Website Executive Leadership Photos and Bios	Objection. Rule 402; Rule 403; See Defendants' MIL, ECF No. 108, § 3.	
P- 109	SBB000575-672		February 2017 Job Openings at First Data	Objection. Rule 402; Rule 801; Rule 901	
P- 110	SBB001307-10	27	First Data Press Release dated January 13, 2017	Objection. Rule 402; See Defendants' MIL, ECF No. 108, § 5.	
P- 111	SBB000775		Letter of recommendation provided to Barger by Hack	Objection. Rule 402; Rule 801; Rule 901	
P- 117	SBB000748-50		Bureau of Labor Statistics Participation Rates	Objection. Rule 801; Rule 901; Document includes 2 different documents. First document contains edits by Plaintiff. Second document is an article.	
P- 125			Table 9 of Markov Process Model for Work-Life Expectancy	Objection. Rule 602. Rule 801. Rule 901.	
P- 126			Plaintiff's Rule 56 Motion calendar of proper allocation of leave, STD, and PTO	Objection. Rule 801; Rule 901; Rule 1006	

P-	128	SBB001814, -27, -29		Excerpts of First Data's Publicly Available Bylaw re Authorized Officers	Objection. Rule 402	
P-	129	SBB002076-9		Excerpts from "Power of Being Yourself Book by Joe Plumeri	Objection. Rule 402; Rule 801	
P-	130	SBB000117-33		First Data Position Statement in Response to EEOC Charge	Objection. Rule 402; Rule 801	
P-	132			Publicly Available First Data WARN Act Notices	Objection. Rule 402	
P-	133	SBB001056-59		First Data OWBPA used by in lay-off in Guy Chiarello's organization	Objection. Rule 402	
P-	134			SEC Filings and Exhibits: Press Releases, Investor Presentation, Section 425 Filing Townhall Meeting Transcript re: Fiserv Merger	Objection. Rule 402; Rule 403; See Defendants' MIL, ECF No. 108, § 2.	
P-	135			Saul Ewing E-mails dated July 13-16 2018 re: Voycheske Declaration	Objection. Rule 501; Attorney-Client Privileged Communication. New York RPC Rule 4.4(b); Rule 402. Rule 801. See also ECF No. 23 (Stipulation and Order Regarding Confidentiality of Discovery Material)	
P-	136			Executive Compensation Excerpts from First Data Schedule 14A Proxy Statement for 2018 Annual Meeting.	Objection. Rule 402; Rule 403; See Defendants' MIL, ECF No. 108, § 1.	
P-	139			Transcript of Rosman non-appearance on June 22, 2018	Objection. Rule 402.	

P-	140			Transcript of Jackson non-appearance on July 3, 2018	Objection. Rule 402. See Defendants' MIL, ECF No. 108, § 5. See also Judge Bloom's Order dated Sept. 4, 2018, denying Plaintiff's Motion to Compel Deposition of EJ Jackson.	
P-	142			Video of Dan Charron Announcing Hiring of EJ Jack in First Data Press Release of January 13, 2017	Objection. Rule 402. See Defendants' MIL, ECF No. 108, § 5. See also Judge Bloom's Order dated Sept. 4, 2018, denying Plaintiff's Motion to Compel Deposition of EJ Jackson.	
P-	148	SBB001160-1180		First Data Connected Magazine Vol. 2 2017	Objection. Rule 402. Rule 602. See Defendants' MIL, ECF No. 108, § 3.	
P-	149			Top Scoop Ice Cream Video re: Clover embedded within First Data internet site with URL https://www.firstdata.com/en_us/products/small-business/insights.html?placement=Solutions_Nav	Objection. Rule 402. Rule 602. Rule 801. Rule 901.	